**Section 350.270 Monitor and Receivership**

a) *The Department may place an employee or agent to serve as a monitor in a facility or may petition the circuit court for appointment of a receiver for a facility, or both, when any of the following conditions exist:*

1) *The facility is operating without a license*;

2) *The Department has suspended, revoked or refused to renew the existing license of the facility*;

3) *The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure*;

4) *The Department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, if because of the unwillingness or inability of the licensee to remedy the emergency the Department believes a monitor is necessary;* as used in this subsection, *"emergency" means a threat to the health, safety or welfare of a resident that the facility is unwilling or unable to correct*;

5) The Department receives notification that *the facility is terminated or will not be renewed for participation in the federal reimbursement program under either Title XVIII* (Medicare) *or Title XIX* (Medicaid) *of the Social Security Act;*

6) *The facility has been designated a distressed facility by the Department and does not have a consultant employed pursuant to Section 3-304.2 of* the *Act* and Section 350.185 *and an acceptable plan of improvement, or the Department has reason to believe the facility is not complying with the plan of improvement. Nothing in this* subsection *shall preclude the Department from placing a monitor in a facility if otherwise justified by law; or*

7) *At the discretion of the Department when a review of facility compliance history, incident reports, or reports of financial problems raises a concern that a threat to resident health, safety, or welfare exists.* (Section 3-501 of the Act)

b) The monitor shall meet the following minimum requirements:

1) Be in good physical health, as evidenced by a physical examination by a physician within the last year, and have had a TB test;

2) Have an understanding of the needs of ID/DD facility residents as evidenced by one year of experience in working, as appropriate, with developmentally disabled individuals in programs such as patient care, social work or advocacy;

3) Have an understanding of the provisions of the Act and this Part that are the subject of the monitors' duties as evidenced in a personal interview of the candidate;

4) Not be related to the owners of the involved facility either through blood, marriage or common ownership of real or personal property except ownership of stock that is traded on a stock exchange;

5) Have successfully completed a baccalaureate degree or possess a nursing license or a nursing home administrator's license; and

6) Have two years of full-time work experience that is relevant to the reason the monitor has been placed in the facility.

c) The monitor shall be under the supervision of the Department; shall perform the duties of a monitor delineated in Section 3-502 of the Act; and shall accomplish the following actions:

1) Visit the facility as directed by the Department;

2) Review all records pertinent to the condition for the monitor's placement under subsection (a);

3) Provide written and oral reports to the Department detailing the observed conditions of the facility; and

4) Be available as a witness for hearings involving the condition for placement as monitor.

d) All communications, including, but not limited to, data, memoranda, correspondence, records and reports, shall be transmitted to and become the property of the Department. In addition, findings and results of the monitor's work done under this Part shall be strictly confidential and not subject to disclosure without written authorization from the Department, or by court order subject to disclosure only in accordance with the Freedom of Information Act, subject to the confidentiality requirements of the Act.

e) The Department may terminate the monitor assignment as monitor at any time.

f) Through consultation with the long-term care industry associations, professional organizations, consumer groups and health care management corporations, the Department will maintain a list of receivers. Preference on the list shall be given to individuals possessing a valid Illinois nursing home administrator’s license and experience in financial and operations management of a long-term care facility and to individuals with access to consultative experts with this experience. To be placed on the list, individuals shall meet the following minimum requirements:

1) Be in good physical health as evidenced by a physical examination by a physician within the last year, and have had a TB test;

2) Have an understanding of the needs of ID/DD facility residents and the delivery of the highest possible quality of care as evidenced by one year of experience in working with developmentally disabled individuals in programs such as patient care, social work or advocacy;

3) Have an understanding and working knowledge of the Act and this Part as evidenced in a personal interview of the candidate;

4) Have successfully completed a baccalaureate degree, or possess a nursing license or a nursing home administrator's license; and

5) Have two years of full-time working experience providing care to persons with developmental disabilities that is relevant to the reason the monitor has been placed in the facility.

g) Upon a court appointment of a receiver for a facility, the Department will inform the individual of all legal proceedings to date that concern the facility.

h) The receiver may request that the Director authorize expenditures from monies appropriated, pursuant to Section 3-511 of the Act, if incoming payments from the operation of the facility are less than the costs incurred by the receiver.

i) In the case of Department-ordered patient transfers, the receiver may:

1) Assist in providing for the orderly transfer of all residents in the facility to other suitable facilities or make other provisions for their continued health;

2) Assist in providing for transportation of the resident, and the resident's medical records and the resident's belongings if the resident is transferred or discharged; assist in locating alternative placement; assist in preparing the resident for transfer; and permit the resident's legal guardian to participate in selecting the resident's new location;

3) Unless emergency transfer is necessary, explain alternative placements to the resident and provide orientation to the place chosen by the resident or resident's guardian.

j) *In any action or special proceeding brought against a receiver in the receiver's official capacity for acts committed while carrying out* *powers and duties* set forth in this Section, *the receiver shall be considered a public employee under the Local Governmental and Governmental Employees Tort Immunity Act*. *A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts or breach of* *fiduciary* *duty.* (Section 3-513 of the Act)

(Source: Amended at 46 Ill. Reg. 10519, effective June 2, 2022)